

**BOARD OF ENVIRONMENTAL REVIEW  
AGENDA ITEM  
EXECUTIVE SUMMARY FOR RULE ADOPTION**

**AGENDA # II. A. 2.**

**AGENDA ITEM SUMMARY** The Water Protection Bureau requests that the Board adopt new rules to define and establish storm water permitting requirements in accordance with the historic requirements and newest federal regulations.

**LIST OF AFFECTED RULES**

As a part of MPDES program rules in a new sub-chapter, New Rules I through X.

**AFFECTED PARTIES SUMMARY** These rules would affect all contractors or others that disturb one acre of land or more as a result of construction activities, industries with federal classification codes as industries requiring permits for storm water and public entities required to obtain permits for Municipal Separate Storm Sewer Systems.

**SCOPE OF PROPOSED PROCEEDING** The Department is requesting adoption of rulemaking and hearing officer's report.

**BACKGROUND** The Water Protection Bureau has been working to update rules for the operation of the storm water program and to incorporate the latest federal rulemaking on Phase II of the national storm water program. The most significant changes to what is currently in place are: 1) to lower the threshold for requiring a storm water permit for construction related disturbance from 5 acres to one acre; 2) to create a new general permit based upon Best Management Practices for public entities that meet a population (10,000) threshold (MS4: Municipal Separate Storm Sewer System); 3) to establish designation criteria for public entities needing an MS4 permit; 4) to create a no exposure certification for industrial activities; and 5) to modify existing general permit rules to accommodate the new storm water provisions.

In preparing these proposed rules, the Water Protection Bureau worked with a small stakeholders group in a meeting setting, mailed to an interest group of several hundred for comment, and met with municipalities and counties required to obtain an MS4 permit. The EPA has conducted an initial review of the proposed rules and provided comment. These proposed regulations have been presented and discussed with the Water Pollution Control Advisory Council.

**HEARING INFORMATION** A hearing was held November 18, 2002 before hearing examiner Thomas Bowe.

**BOARD OPTIONS** The Board may:

1. Adopt the rulemaking, hearing officer's report and responses to comment;
2. Adopt the rulemaking and hearing officer's report with modifications; or

3. Not adopt the rulemaking and hearing officer's report.

**DEQ RECOMMENDATION** The Department recommends adoption of rulemaking and hearing officer's report..

**ENCLOSURES** Notice of Public Hearing on Proposed Adoption  
Hearing Examiner Report  
Draft Notice of Adoption